

HOUSE BILL REPORT

EHB 1566

As Passed House:

March 3, 2009

Title: An act relating to granting the insurance commissioner certain authority when the governor declares a state of emergency.

Brief Description: Granting the insurance commissioner certain authority when the governor declares a state of emergency.

Sponsors: Representatives Kirby, Williams and Simpson; by request of Insurance Commissioner.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/29/09, 2/3/09 [DPA].

Floor Activity

Passed House: 3/3/09, 97-0.

Brief Summary of Engrossed Bill (As Amended by House)

- Allows the Insurance Commissioner to issue orders addressing certain insurance matters after the Governor proclaims a state of emergency.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 10 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst, McCoy, Nelson, Roach, Santos and Simpson.

Staff: Jon Hedegard (786-7127)

Background:

The Insurance Commissioner (Commissioner) regulates insurance in this state. This includes oversight of rates, forms, financial conditions, claims practices, and other matters related to the business of insurance. The Commissioner has the general authority to make reasonable

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rules and regulations to effectuate any provision of the insurance code. The Commissioner has a number of other specific grants of authority, including the ability to adopt rules that define methods of competition and acts and practices to be unfair or deceptive.

The Commissioner may also adopt emergency rules if the Commissioner finds that the "immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest or that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule."

An emergency rule adopted is effective upon filing with the Code Reviser, unless a later date is specified in the order of adoption. An emergency rule may not remain in effect for longer than 120 days after filing. Identical or substantially similar emergency rules may not be adopted successively unless conditions have changed or the Commissioner has filed to begin a permanent rule-making and is actively undertaking the appropriate procedures to adopt a permanent rule.

After finding that a public disorder, disaster, energy emergency, or riot exists within this state, which affects life, health, property, or the public peace, the Governor may proclaim a state of emergency in the affected area. The powers granted to the Governor during a state of emergency are effective only within the area described in the proclamation.

Under the Administrative Procedures Act, an "order," is defined as a "written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons."

Summary of Engrossed Bill:

When the Governor proclaims a state of emergency, the Commissioner may issue an order that addresses any or all of the following matters related to insurance policies:

- reporting requirements for claims;
- grace periods for payment of insurance premiums and performance of other duties by insureds;
- temporary postponement of cancellations and renewals; and
- medical coverage to ensure access to care.

An order by the Commissioner is effective for up to 30 days. The Commissioner may extend the termination date for the order for an additional period of time up to 30 days or for subsequent additional periods of up to 30 days. The Commissioner may extend the order if, in the Commissioner's judgment, the circumstances warrant an extension. An order of the Commissioner is not effective after the related state of emergency is terminated by proclamation of the Governor. The order must specify, by line of insurance:

- the geographic area in which the order applies. The geographic area must be the same as or within the geographic area where the Governor has proclaimed a state of emergency;
- the date on which the order becomes effective; and

- the date on which the order terminates.

The Commissioner may adopt rules that establish general criteria for orders issued during a state of emergency and may adopt emergency rules applicable to a specific proclamation of a state of emergency by the Governor. This rule-making authority does not limit or affect other rule-making authority granted to the Commissioner.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a subject that arose during the interim. The Commissioner has worked on it with stakeholders. The state has experienced severe weather in recent years. It seems like every year brings a state of emergency somewhere in Washington. The Legislature was not aware that the Commissioner did not have these abilities. The need for this bill became apparent after the floods of 2007. Many affected people were not able to access their mail. The Commissioner did not have the ability to issue orders regarding cancellations. The Commissioner did ask for a voluntary moratorium. All persons believe that all insurers complied with that appeal. The language in the bill is very similar to a law passed in Oregon last year. The Commissioner believes that the increasing severity of events that disrupt normal business and the infrastructure make this type of bill necessary.

(Opposed) None.

Persons Testifying: Representative Kirby, prime sponsor; and Drew Bortner, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.